



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 16, 2003

H.R. 2417 **Intelligence Authorization Act for Fiscal Year 2004**

*As ordered reported by the House Permanent Select Committee on Intelligence
on June 12, 2003*

SUMMARY

H.R. 2417 would authorize appropriations for fiscal year 2004 for intelligence activities of the U.S. government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System (CIARDS).

This estimate addresses only the unclassified portion of the bill. On that limited basis, CBO estimates that implementing certain provisions of the bill would cost \$320 million over the 2004-2008 period, assuming appropriation of the specified and estimated amounts. CBO also estimates the bill would affect direct spending and receipts by an insignificant amount.

H.R. 2417 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs of complying with these mandates would not exceed the thresholds established by that act (\$59 million for intergovernmental mandates and \$117 million for private-sector mandates in 2003, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2417 is shown in the following table. CBO cannot obtain the necessary information to estimate the costs for the entire bill because parts are classified at a level above clearances held by CBO employees. For purposes of this estimate, CBO assumes that the bill will be enacted by October 1, 2003, and that the necessary amounts will be appropriated for each year. Estimated outlays are based on historical spending patterns. The costs of this legislation fall within budget function 050 (national defense).

	By Fiscal Year, in Millions of Dollars					
	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION^a						
Spending Under Current Law for Information Analysis and Infrastructure Protection and the Community Management Account ^b						
Authorization Level	350	0	0	0	0	0
Estimated Outlays	330	108	21	4	0	0
Proposed Changes						
Intelligence Community Management Account						
Specified Authorization Level	0	193	0	0	0	0
Estimated Outlays	0	119	58	11	3	0
Information Sharing Among Federal, State, and Local Governments						
Estimated Authorization Level	0	23	21	22	22	22
Estimated Outlays	0	19	22	22	21	22
Counterintelligence Initiatives						
Estimated Authorization Level	0	3	5	5	5	6
Estimated Outlays	0	2	5	5	5	6
Total Changes						
Estimated Authorization Level	0	218	27	27	27	28
Estimated Outlays	0	140	84	38	30	28
Spending Under H.R. 2417 for Information Analysis and Infrastructure Protection and the Community Management Account ^b						
Estimated Authorization Level	350	218	27	27	27	28
Estimated Outlays	330	248	105	42	30	28

NOTE: Components may not sum to totals because of rounding.

- a. In addition to effects on spending subject to appropriation, CBO estimates H.R. 2417 would have an insignificant effect on direct spending and receipts.
- b. The 2003 level is the amount appropriated for that year for the Information Analysis and Infrastructure Protection Directorate of the Department of Homeland Security and the Intelligence Community Management Account.

Spending Subject to Appropriation

H.R. 2417 would specifically authorize the appropriation of \$193 million for the Intelligence Community Management Account, which funds the coordination of programs, budget oversight, and management of the intelligence agencies. The bill would earmark \$34 million for the National Drug Intelligence Center from the funds authorized for the Intelligence Community Management Account. In addition to the costs covered by the specified authorization, the bill contains several new provisions, primarily dealing with information sharing and counterintelligence initiatives, that CBO estimates would require additional appropriations of \$134 million over the 2004-2008 period to implement. CBO estimates that implementing these provisions would cost \$320 million over the 2004-2008 period, assuming appropriation of the specified and estimated amounts.

Information Sharing Among Federal, State, and Local Governments. Section 336 would authorize the creation of several new programs to improve the sharing of information among federal, state, and local governments. Largest among these would be the Homeland Defender Intelligence Training Program, where the Director of Central Intelligence would establish a program to train qualified state and local officials in assessing and using available resources of the intelligence community. The cost of implementing this program would depend on the still-to-be-determined course curriculum and number of participants. Without information from the Central Intelligence Agency (CIA) on how this program would be implemented, CBO based its estimate on the cost of federal counterdrug training programs offered by the National Guard for state and local officials. Based on this analogy, CBO estimates the cost of implementing this new program would be about \$20 million a year and \$106 million over the 2004-2008 period. Costs would be slightly higher in the first year due to start-up costs.

Section 336 also would authorize two three-year pilot programs designed to improve information sharing among federal, state, and local officials. The first would authorize the Information Analysis and Infrastructure Protection Directorate of the Department of Homeland Security to train local officials to collect and report information to mitigate threats against critical infrastructure. The second pilot program would allow federal intelligence agencies to distribute certain modified intelligence reports to state and local officials. The cost of these pilot programs would depend on the number of cities chosen to participate and, in the case of the first pilot program, depend on the course curriculum and number of participants. CBO cannot estimate the budgetary impact of implementing these programs, however, since we lack sufficient information to estimate the cost.

Counterintelligence Initiatives. Section 321 would direct the Director of Central Intelligence to establish programs and procedures for all federal agencies to help prevent the

unauthorized disclosure of classified information. The cost of this initiative would depend on the degree to which existing federal agency resources and procedures for the monitoring and handling of classified materials are adopted. Absent information on how this program would be implemented, CBO based its estimate on the cost of security review programs carried out by the Department of Defense. Based on this analogy, CBO estimates that implementing this section would cost about \$5 million a year, after a one-year phase-in period, and about \$23 million over the 2004-2008 period.

Section 321 also would require all employees of the intelligence community who handle classified information to submit financial disclosure forms. This requirement was previously put forth in Executive Order Number 12968 (60 F.R. 40245). The status of the implementation of this requirement varies from agency to agency. Several agencies are already in full compliance, while others are still planning how they would implement the requirement. For those agencies not in compliance, there would be a cost to administering this provision, mainly for additional personnel needed to distribute and collect the forms. CBO cannot provide an estimate of this provision, because the data needed for such an estimate, such as the number of affected personnel, are classified.

Codification and Reorganization of Certain Intelligence Agencies. Two sections of H.R. 2417 would create new intelligence organizations within the federal government. Section 105 would create the Bureau of Intelligence and Enforcement of the Department of the Treasury, and section 321 would create an Office of Counterintelligence within the Federal Bureau of Investigation. Based on information from the affected agencies, CBO believes these organizations would be created from existing offices and functions; therefore, any costs associated with creating these new organizations would be insignificant.

Measurement and Signatures Intelligence Research Program. Section 505 would create a new program within the Defense Intelligence Agency to incorporate the results of basic research on sensors into measurement and signatures intelligence systems. The Department of Defense and the intelligence community currently spend substantial amounts on research related to measurement and signatures intelligence. The cost of this new program would depend on the degree to which it generates new research programs and budget requirements above current levels. Until specific research and development projects are identified, CBO does not have enough information to estimate the costs of this section.

Direct Spending and Revenues

The bill would authorize \$226 million for CIARDS to cover retirement costs attributable to military service and various unfunded liabilities. The payment to CIARDS is considered

mandatory, and the authorization under this bill would be the same as assumed in the CBO baseline. Thus, this estimate does not ascribe any additional cost to that provision.

Section 341 would extend by one year the National Commission for Review of Research and Development Programs of the U.S. Intelligence Community to continue its review of the status of research and development programs and activities within the intelligence community and report on its findings. The provision also would extend the commission's authority to accept and spend gifts. CBO estimates that enacting this provision would have no net effect on direct spending because it would allow the commission to spend any gifts that it collects. (Gifts and donations are recorded in the budget as revenues.)

Section 502 would allow the National Security Agency (NSA) to provide housing to students in its Student Educational Employment Program and charge the students a fee for this service, which NSA could spend without further appropriation. CBO estimates that the net result of the collection and expenditure of these proceeds would be insignificant.

Section 505 would establish an advisory panel to review and make recommendations on measurement and signatures intelligence programs. Under this provision, the Director of the Defense Intelligence Agency would be allowed to accept contributions to defray the expenses of the advisory panel. CBO estimates any contributions received under this section would be insignificant.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

This bill contains three preemptions of state and local authority.

Section 332 could preempt states' power to regulate and restrict the possession and transportation of explosives; if so, it would be an intergovernmental mandate as defined in UMRA.

Section 341 would extend for one year the National Commission for the Review of the Research and Development Programs of the U.S. Intelligence Community. That commission has the power to subpoena testimony and evidence, which is an enforceable duty. Because this bill would extend the commission and its associated subpoena power, it also contains an intergovernmental mandate as defined in UMRA.

Sections 401 and 504 provide that personnel in the CIA and the NSA who are designated to carry firearms would be protected from any provision of law relating to tort liability for certain actions. These sections would preempt state laws related to tort liability and would

limit the ability of state and local governments to seek damages against these personnel. Such preemptions and limitations are mandates under UMRA. The provision related to NSA personnel is more relevant to domestic laws, but according to NSA none of their personnel operating domestically have been sued to date. CBO has no basis for predicting how many such tort liability cases may occur over the next 10 years, but we consider it unlikely that any governmental entities would forgo significant damages as a result of these provisions.

CBO estimates that none of these mandates would impose significant costs on state, local, or tribal governments; thus the threshold for intergovernmental mandates (\$59 million in 2003, adjusted annually for inflation) would not be exceeded.

In addition, section 336 would authorize programs to improve information sharing among federal, state, and local government officials. These programs would benefit state and local governments by training their officials in the identification of potential threats and the use of available intelligence resources. It also would allow for the preparation of intelligence information in a way that it may be made available to state and local officials.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

Section 334 provides enhanced authority for U.S. government authorities engaged in counterintelligence or foreign intelligence activities to obtain certain financial records by expanding the definition of "financial institution" in the Right to Financial Privacy Act. Financial records maintained by these additional entities are not covered by the act and, thus, are not accessible by counterintelligence and foreign intelligence elements of the U.S. government under the act. To the extent that responding to counterintelligence and foreign intelligence related requests for financial records imposes an administrative burden on the affected entities, this constitutes a private-sector mandate under UMRA.

Section 341 would extend for one year the National Commission for the Review of the Research and Development Programs of the U.S. Intelligence Community. That commission has the power to subpoena testimony and evidence, which is an enforceable duty. Because this bill would extend the commission and its associated subpoena power, it contains a private-sector mandate as defined in UMRA.

Sections 401 and 504 provide that certain personnel in the CIA and the NSA would be protected from any provision of law relating to tort liability for certain actions. These sections would preempt laws related to tort liability and would limit the ability of private entities to seek damages against these personnel. CBO has no basis for predicting how many

such tort liability cases may occur over the next 10 years, but we consider it unlikely that any private entities would forgo significant damages as a result of these provisions.

CBO estimates that the costs of these mandates would not exceed the threshold established in UMRA (\$117 for private-sector mandates in 2003, adjusted annually for inflation).

PREVIOUS CBO ESTIMATE

On May 15, 2003, CBO transmitted a cost estimate for the unclassified portion of S. 1025, the Intelligence Authorization Act for Fiscal Year 2004, as reported by the Senate Select Committee on Intelligence on May 8, 2003. The differences in the estimated costs reflect differences in the bills. In particular, S. 1025 would authorize \$198 million for the Intelligence Community Management Account, while H.R. 2417 would authorize \$193 million for that account. H.R. 2417 would also authorize new programs for information sharing and counterintelligence, which CBO estimates would require additional appropriations of about \$134 million over the 2004-2008 period.

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